

## **JURY PRELIMINARY INSTRUCTIONS CRIMINAL**

Ladies and Gentlemen of the jury, will you please rise and raise your right hands to be sworn. The answer to the oath is “I do.”

**\*\*Oath administered by clerk of court.**

Please be seated.

Ladies and Gentlemen, I am sure that the first thing on your mind is “How long am I going to be here?” We anticipate that his case will take 2 days to try, then you will decide, and thereafter you will be released from jury service.

We operate on the following schedule:

1. We start at 9:00 a.m. and we adjourn at about 5:00 p.m.;
2. We take a lunch break from about 12:00 noon to 1:30 p.m.;
3. We take a coffee break mid-morning and mid-afternoon.

All of these times are approximate. If it would break the flow of testimony for us to recess at a particular time, we will either delay or accelerate our recess in order to preserve the continuity of testimony.

Now that you have been sworn, I will give you some **Preliminary**

**Instructions** to guide you in your participation in the trial.

### **DUTY OF JURY**

Your duty is to find from the evidence what the facts are. You, and you alone, are the judges of the facts. You will then have to apply to those facts to the law as I will explain it to you. You must follow that law whether you agree with it or not.

Nothing I may say or do during the course of the trial is intended to indicate, or should be taken by you as indicating what your verdict should be.

### **EVIDENCE**

The evidence from which you will find the facts will consist of the testimony of witnesses, documents and other things received into the record as exhibits, and any facts the lawyers agree or stipulate to, or that I may instruct you to find.

Certain things are not evidence and must not be considered by you. I will list them for you now.

1. Statements, arguments, and questions by lawyers are not evidence.
2. Objections to questions are not evidence. Lawyers have an

obligation to their clients to make an objection when they believe evidence being offered is improper under the Rules of Evidence.

Counsel are not trying to hide relevant information from you.

The law requires that we play by certain rules that are designed to insure a fair trial.

You should not be influenced by the objection or by my ruling on it.

- \* If the objection is sustained, ignore the question.

- \* If it's overruled, treat the answer like any other.

- \* If you are instructed that some item of evidence is received for a limited purpose only, you must follow that instruction.

3. Testimony that I have excluded or told you to disregard is not evidence and must not be considered.

4. Anything you may have seen or heard outside the courtroom is not evidence and must be disregarded. You are to decide the case solely on the evidence presented here in the courtroom.

There are two kinds of evidence: Direct and Circumstantial.

- \* Direct evidence is direct proof of a fact, such as testimony of an

eyewitness.

\*Circumstantial evidence is proof of facts from which you may infer or conclude that other facts exist.

I will give you further instructions on these as well as other matters at the end of the case, but have in mind that you may consider both kinds of evidence.

You must decide which witnesses to believe, which witnesses not to believe, and how much of any witness's testimony to accept or reject. I will give you some guidelines for determining the credibility of witnesses at the end of the case.

### **RULES FOR CRIMINAL CASES**

As you know, this is a criminal case. There are three basic rules about a criminal case that you must keep in mind.

First, the defendant is presumed innocent until proven guilty. The indictment against the defendant brought by the government is only an accusation, nothing more. It is not proof of guilt or anything else. The defendant therefore starts out with a clean slate.

Second, the burden of proof is on the government until the very end of

the case. The defendant has no burden to prove his innocence, or to present any evidence, or to testify. Because the defendant has the right to remain silent, the law prohibits you in arriving at your verdict from considering that the defendant may not have testified.

Third, the government must prove the defendant's guilt beyond a reasonable doubt. I will give you further instructions on this point later, but bear in mind that in this respect a criminal case is different from a civil case.

### **SUMMARY OF APPLICABLE LAW**

In this case, the defendant is charged with

I will give you detailed instructions on the law at the end of the case, and those instructions will control your deliberations and decision. But to help you follow the evidence, I will now give you a brief summary of the elements of the offense(s) that the government must prove to make its case.

[Insert Summary Here.]

## **CONDUCT OF THE JURY**

Now, a few words about your conduct as jurors.

You have taken an oath which states you are going to decide this case based on the evidence and evidence alone. Let me discuss this with you at this time.

\* First of all, we do not desire that you decide whom you like and whom you dislike and try to decide the case accordingly. Trial is not a popularity contest.

\* Therefore, you will not have any contact with anybody related to the case – lawyers, parties or witnesses. You may say “Good morning!” or “Good afternoon!” as you pass them in the hall; you may say nothing further. You will certainly not accept from nor extend to anybody related to the case any favors, however, slight.

When you get home this evening, you will probably be asked by your family if you were selected to serve on a jury. Of course, you may tell them that you are serving on a jury, but you are not to tell them anything concerning the nature of the case for, if you do, they might make a comment that has no relevance whatsoever to this particular case but that could affect

your thinking in this matter. You are not to discuss the case with anyone until after you have heard all of the evidence.

Additionally, you are not to discuss this case with other members of the jury until after you have heard all of the evidence, retire to the jury deliberation room and all of you are present and I have instructed you to reach your verdict.

After the case is over, you will be released from that instruction and then you will be free to discuss the case in as much or as little detail as you want to with anybody you wish, including the attorneys.

You are not to make any private investigation concerning this case. You are not to talk to your own doctor, your own lawyer, or anybody you think would have expert knowledge. Simply listen to the case as presented to you in court and make up your minds based upon the evidence and the evidence alone.

Note taking - Permitted.

If you would like to take notes during the trial you may do so. On the other hand, of course, you are not required to take notes if you do not want to. That will be left up to you, individually.

If you do decide to take notes, be careful not to get so involved in note taking that you become distracted from the ongoing proceedings. Also, your notes should be used only as aids to your memory; and if your memory should later differ from your notes, you should rely upon your memory and not your notes.

If you do not take notes, you should rely upon your own independent recollection or memory of what the testimony was, and you should not be unduly influenced by the notes of other Jurors. Notes are not entitled to any greater weight than the recollection or impression of each Juror concerning what the testimony was.

Notebooks will be collected at the end of each trial day, and returned to you when trial resumes. During breaks, you should leave your notebooks in your chairs



You have been given some written instructions that are a statement of your duties and responsibilities as jurors. You are to follow all of the instructions contained in those instructions just as you are to follow the oral instructions that I am now giving you. I suggest that you read this pamphlet on your lunch break today or this evening at home.

If you have any problems during the course of the trial, please let a member of the staff know. Should you be delayed arriving at the courtroom in the morning for any reason whatsoever, you must give the court a call. The court's telephone number is stamped on the cover of this pamphlet.

If at any time you cannot hear, please signal me by putting your hand to your ear or otherwise letting me know immediately so that I can correct that problem for you.

When you return from each break, you are to go to the jury room next to the courtroom. One of the staff will come to get you at the end of each break when the trial is ready to continue.

No smoking is permitted in the building, the courtroom or the jury deliberation room. If you desire to smoke, you will be free to do so outside of the courthouse during your breaks.

Ladies and gentlemen of the jury, I hope that you will enjoy your jury service with us. We are going to try this case as quickly as possible, consistent with justice.

### **COURSE OF THE TRIAL**

The trial will now begin.

\* First, the government will make an opening statement, which is simply an outline to help you understand the evidence as it comes in.

\* Next, the defendant's attorney(s) may but does/do not have to make an opening statement.

\* Opening statements are neither evidence nor arguments.

Ladies and Gentlemen of the jury, I hope that you will enjoy your jury service with us. We are going to try this case as quickly as possible, consistent with justice.